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**UNITED STATES BANKRUPTCY COURT**  
**FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
San Francisco Division

In re

**BENJA INCORPORATED**

Debtor

Case No. 20-30819 DM

Chapter 7

KYLE EVERETT, TRUSTEE  
Plaintiff

vs.

**THOMAS B. PETERS**  
Defendant

Case No. 21-03060 DM

**ANSWER**

COMES NOW Thomas B. Peters and Answers the Trustee's Complaint herein as follows:

1. Defendant denies the allegations of Paragraph 1 of the Complaint on lack of information and belief.

2. Defendant denies the allegations of Paragraph 2 of the Complaint on lack of information and belief.

3. Defendant denies the allegations of Paragraph 3 of the Complaint on lack of information

1 and belief.

2 4. Defendant denies the allegations of Paragraph 4 of the Complaint on lack of information  
3 and belief.

4 5. Defendant denies the allegations of Paragraph 5 of the Complaint on lack of information  
5 and belief.

6 6. Defendant denies the allegations of Paragraph 6 of the Complaint on lack of information  
7 and belief.

8 7. Defendant denies the allegations of Paragraph 7 of the Complaint on lack of information  
9 and belief.

10 8. Defendant denies the allegations of Paragraph 8 of the Complaint on lack of information  
11 and belief, except as to the final sentence of Paragraph 8, which Defendant denies.

12 9. Defendant denies Paragraph 9 of the Complaint.

13 10. Defendant denies the allegations of Paragraph 10 of the Complaint on lack of information  
14 and belief.

15 11. Defendant admits the allegations of Paragraph 11 of the Complaint.

16 12. Defendant admits the allegations of Paragraph 12 of the Complaint.

17 13. Defendant admits the allegations of Paragraph 13 of the Complaint.

18 14. Defendant admits the allegations of Paragraph 14 of the Complaint and also consents to  
19 the entry of a final judgment by the Court.

20 15. Defendant admits the allegations of Paragraph 15 of the Complaint.

21 16. Defendant denies the allegations of Paragraph 16 of the Complaint.

22 17. Defendant denies the allegations of Paragraph 17 of the Complaint on lack of information  
23 and belief.

24 18. Defendant admits the allegations of the first sentence of Paragraph 18 of the Complaint

1 and denies the other allegations of Paragraph 18 of the Complaint on lack of information and belief.

2           19.     Defendant denies the allegations of Paragraph 19 of the Complaint on lack of information  
3 and belief.

4           20.     Defendant denies the allegations of Paragraph 20 of the Complaint on lack of information  
5 and belief.

6           21.     Defendant denies the allegations of Paragraph 21 of the Complaint on lack of information  
7 and belief.

8           22.     Defendant denies the allegations of Paragraph 22 of the Complaint on lack of information  
9 and belief.

10          23.     Defendant denies the allegations of Paragraph 23 of the Complaint on lack of information  
11 and belief.

12          24.     Defendant denies the allegations of Paragraph 24 of the Complaint on lack of information  
13 and belief.

14          25.     Defendant admits the allegations of the first sentence of Paragraph 25 of the Complaint  
15 and denies all of the other allegations of Paragraph 25 of the Complaint on lack of information and  
16 belief.

17          26.     Defendant denies the allegations of Paragraph 26 of the Complaint on lack of information  
18 and belief.

19          27.     Defendant denies the allegations of Paragraph 27 of the Complaint on lack of information  
20 and belief.

21          28.     Defendant admits the allegations of Paragraph 28 of the Complaint.

22          29.     Defendant admits the allegations of Paragraph 29 of the Complaint.

23          30.     Defendant denies the allegations of Paragraph 30 of the Complaint on lack of information  
24 and belief.

1           31.     Defendant denies the allegations of Paragraph 31 of the Complaint on lack of information  
2 and belief.

3           32.     Defendant denies the allegations of Paragraph 32 of the Complaint on lack of information  
4 and belief.

5           33.     Defendant denies the allegations of Paragraph 33 of the Complaint on lack of information  
6 and belief.

7           34.     Defendant denies the allegations of Paragraph 34 of the Complaint on lack of information  
8 and belief.

9           35.     Defendant denies the allegations of Paragraph 35 of the Complaint on lack of information  
10 and belief.

11           36.     Defendant admits the allegations of Paragraph 36.

12           37.     Defendant denies the allegations of Paragraph 37 of the Complaint on lack of information  
13 and belief.

14           38.     Defendant denies the allegations of Paragraph 38 of the Complaint on lack of information  
15 and belief.

16           39.     Defendant admits the allegations of Paragraph 39 of the Complaint.

17           40.     Defendant denies the allegations of Paragraph 40 of the Complaint on lack of information  
18 and belief.

19           41.     Defendant denies the allegations of Paragraph 41 of the Complaint on lack of information  
20 and belief.

21           42.     Defendant denies the allegations of Paragraph 42 of the Complaint on lack of information  
22 and belief.

23           43.     Defendant denies the allegations of Paragraph 43 of the Complaint on lack of information  
24 and belief.

1           44.     Defendant denies the allegations of Paragraph 44 of the Complaint on lack of information  
2 and belief.

3           45.     Defendant denies the allegations of Paragraph 45 of the Complaint on lack of information  
4 and belief.

5           46.     Defendant denies the allegations of Paragraph 46 of the Complaint on lack of information  
6 and belief.

7           47.     Defendant re-alleges and incorporates by this reference his responses to the preceding  
8 allegations.

9           48.     Paragraph 48 of the Complaint is a tautology which requires no response by Defendant.

10          49.     Defendant denies the allegations of Paragraph 49 of the Complaint on lack of information  
11 and belief.

12          50.     Defendant denies the allegations of Paragraph 50 of the Complaint on lack of information  
13 and belief.

14          51.     Defendant denies the allegations of Paragraph 51 of the Complaint on lack of information  
15 and belief.

16          52.     Defendant denies the allegations of Paragraph 52 of the Complaint on lack of information  
17 and belief.

18          53.     Defendant denies the allegations of Paragraph 53 of the Complaint on lack of information  
19 and belief.

20          54.     Defendant re-alleges and incorporates by this reference his responses to the preceding  
21 allegations.

22          55.     Paragraph 55 is a tautology which requires no response by Defendant.

23          56.     Defendant denies the allegations of Paragraph 56 of the Complaint on lack of information  
24 and belief.

1           57.     Defendant denies the allegations of Paragraph 57 of the Complaint on lack of information  
2 and belief.

3           58.     Defendant denies the allegations of Paragraph 58 of the Complaint on lack of information  
4 and belief.

5           59.     Defendant denies the allegations of Paragraph 59 of the Complaint on lack of information  
6 and belief.

7           60.     Defendant denies the allegations of Paragraph 60 of the Complaint on lack of information  
8 and belief.

9           61.     Defendant denies the allegations of Paragraph 61 of the Complaint on lack of information  
10 and belief.

11           62.     Defendant re-alleges and incorporates by this reference his responses to the preceding  
12 allegations.

13           63.     Paragraph 63 is a tautology which requires no response by Defendant.

14           64.     Defendant denies the allegations of Paragraph 64 of the Complaint on lack of information  
15 and belief.

16           65.     Defendant denies the allegations of Paragraph 65 of the Complaint on lack of information  
17 and belief.

18           66.     Defendant denies the allegations of Paragraph 66 of the Complaint on lack of information  
19 and belief.

20           67.     Defendant denies the allegations of Paragraph 67 of the Complaint on lack of information  
21 and belief.

22           68.     Defendant denies the allegations of Paragraph 68 of the Complaint on lack of information  
23 and belief.

24           69.     Defendant denies the allegations of Paragraph 69 of the Complaint on lack of information  
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27  
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1 and belief.

2 70. Defendant re-alleges and incorporates by this reference his responses to the preceding  
3 allegations.

4 71. Paragraph 71 is a tautology which requires no response by Defendant.

5 72. Defendant denies the allegations of Paragraph 72 of the Complaint on lack of information  
6 and belief.

7 73. Defendant denies the allegations of Paragraph 73 of the Complaint on lack of information  
8 and belief.

9 74. Defendant denies the allegations of Paragraph 74 of the Complaint on lack of information  
10 and belief.

11 75. Defendant denies the allegations of Paragraph 75 of the Complaint on lack of information  
12 and belief.

13 76. Defendant denies the allegations of Paragraph 76 of the Complaint on lack of information  
14 and belief.

15 77. Defendant denies the allegations of Paragraph 77 of the Complaint on lack of information  
16 and belief.

17 78. Defendant re-alleges and incorporates by this reference his responses to the preceding  
18 allegations.

19 79. Defendant denies the allegations of Paragraph 79 of the Complaint on lack of information  
20 and belief.

21 80. Defendant denies the allegations of Paragraph 80 of the Complaint on lack of information  
22 and belief.

23 81. Defendant denies the allegations of Paragraph 81 of the Complaint on lack of information  
24 and belief.

1           82.     Defendant re-alleges and incorporates by this reference his responses to the preceding  
2 allegations.

3           83.     Defendant denies the allegations of Paragraph 56 of the Complaint on lack of information  
4 and belief.

5           84.     Defendant re-alleges and incorporates by this reference his responses to the preceding  
6 allegations.

7           85.     Defendant denies the allegations of Paragraph 85 of the Complaint.

8           86.     Defendant denies the allegations of Paragraph 86 of the Complaint on lack of information  
9 and belief.

10          87.     Defendant denies the allegations of Paragraph 87 of the Complaint on lack of information  
11 and belief.

12                 WHEREFORE, Defendant prays as hereinafter set forth.

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15                         **AFFIRMATIVE DEFENSES**

16                 Without assuming any burden Defendant would not otherwise bear, Defendant asserts the  
17 following affirmative defenses (and/or counterclaims if so designated pursuant to Federal Rules of  
18 Bankruptcy Procedure 7008) to the Complaint:

19  
20                         **FIRST AFFIRMATIVE DEFENSE**

21                 The Complaint fails to state a claim in whole or in part against Defendant upon which relief may  
22 be granted pursuant to Federal Rule of Civil Procedure 12(b)(6), made applicable hereto by Federal Rule  
23 of Bankruptcy Procedure 7012(b).

24  
25                         **SECOND AFFIRMATIVE DEFENSE**

26                 The Trustee has not met its burden under 11 U.S.C. § 544, by which the Trustee incorporates  
27 Civil Code Section 3440 with respect to the transfer identified in the Complaint to the extent that (a)  
28 such transfer was not made with the actual intent to hinder, delay, or defraud any creditor of the Debtor;



1 and (b) the Debtor received reasonably equivalent value in exchange for the transfer or obligation, and  
2 (i) the Debtor was not engaged nor was it about to engage in a business or a transaction for which the  
3 remaining assets of the Debtor were unreasonably small in relation to the business or transaction and (ii)  
4 the Debtor did not intend to incur nor did the Debtor believe or reasonably should have believed that it  
5 would incur debts beyond its ability to pay as they became due.

### 6 7 **THIRD AFFIRMATIVE DEFENSE**

8 This Defendant received the transfers alleged in the Complaint in good faith and for value and  
9 without knowledge of the voidability of the transfers. If such transfers are avoided, this Defendant is  
10 entitled to a lien against the assets or any monetary claim with respect thereto for the value given  
11 pursuant to 11 U.S.C. §548(c) and §550(e).

### 12 13 **FOURTH AFFIRMATIVE DEFENSE**

14 This Defendant received the transfers alleged in the Complaint in good faith and for reasonably  
15 equivalent value. Cal. Civ. Code §3439.08(a).

### 16 17 **FIFTH AFFIRMATIVE DEFENSE**

18 This Defendant received the transfers alleged in the Complaint in good faith. In the event that  
19 the transfers are avoided or judgment therefor is entered, the Defendant is entitled to a lien on or right to  
20 retain any interest in the asset transferred, enforcement of the obligations incurred, and/or reduction in  
21 the amount of any judgment. Cal. Civ. Code §3439.08(d).

### 22 23 **SIXTH AFFIRMATIVE DEFENSE**

24 The Trustee's claims are barred, in whole or in part, by waiver, laches, release, estoppel, set-off,  
25 recoupment, statute of frauds, unclean hands, and any other matter constituting a defense allowable  
26 under the Federal Rules of Civil Procedure made applicable hereto by the Federal Rules of Bankruptcy  
27 Procedure, as such matters may be developed during discovery.

1                                    **SEVENTH AFFIRMATIVE DEFENSE**

2            The Trustee's claims are barred, in whole or in part, by the applicable statutes of limitations.

3  
4                                    **EIGHTH AFFIRMATIVE DEFENSE**

5            The Trustee is not entitled to recover fees, costs, interest or expenses.

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7                                    **NINTH AFFIRMATIVE DEFENSE**

8            Upon information and belief, and pending an opportunity for complete discovery, the Plaintiff's  
9 claims are barred to the extent the Judgment Debtor/Transferor was not insolvent at the time of the  
10 alleged transfers.

11                                   **TENTH AFFIRMATIVE DEFENSE**

12           Defendant reserves the right to amend and/or supplement this Answer, including, without  
13 limitation, to assert additional affirmative defenses.

14  
15                                   **PRAYER**

16           **WHEREFORE**, Defendant respectfully requests that the Court enter an order determining and  
17 adjudging that the Trustee is not entitled to any of the relief he seeks against Defendant, dismissing the  
18 Complaint with prejudice, and granting such other and further relief as is just and proper.

19 DATED: February 15, 2022

ST. JAMES LAW, P.C.

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21                                   By: /s/ Michael St James .  
22                                   Michael St. James  
23                                   Counsel for Defendant  
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